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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q94483

Samuel PRUVOT, et al.

Appln. No.: 10/576,102

Group Art Unit: Not Yet Assigned

Confirmation No.: 7427

Examiner: Not Yet Assigned

Filed: April 18, 2006

For: FLUID PRODUCT DISPENSING DEVICE

**SUBMISSION OF INTERNATIONAL
PRELIMINARY EXAMINATION REPORT (IPER)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

For the Examiner's convenience, enclosed herewith is a copy of the English translation of the International Preliminary Examination Report. It is noted that the four references cited in the International Search Report were previously submitted to the U.S. Patent and Trademark Office with an Information Disclosure Statement on April 18, 2006, and are therefore not enclosed herewith.

Respectfully submitted,

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CUSTOMER NUMBER

Date: October 2, 2006

TRANSLATION

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference VALS 938 PCT		FOR FURTHER ACTION See Form PCT/IPEA/416
International application No. PCT/FR2004/050506	International filing date (day/month/year) 18.10.2004	Priority date (day/month/year) 20.10.2003
International Patent Classification (IPC) or national classification and IPC B65D83/14, B65D1/02, B05B11/00		
Applicant VALOIS SAS		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.	
2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.	
3. This report is also accompanied by ANNEXES, comprising:	
a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:	
<input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).	
<input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.	
b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____ containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).	
4. This report contains indications relating to the following items:	
<input checked="" type="checkbox"/> Box No. I	Basis of the report
<input type="checkbox"/> Box No. II	Priority
<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/> Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/> Box No. VI	Certain documents cited
<input type="checkbox"/> Box No. VII	Certain defects in the international application
<input type="checkbox"/> Box No. VIII	Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/FR2004/050506

Box No. 1

Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
 - ☐ international search (Rule 12.3 and 23.1(b))
 - ☐ publication of the international application (Rule 12.4)
 - ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):
 - ☐ the international application as originally filed/furnished
 - ☒ the description:
 - pages 1-6 _____ as originally filed/furnished
 - pages* _____ received by this Authority on _____
 - pages* _____ received by this Authority on _____
 - ☒ the claims:
 - nos. 1-8 _____ as originally filed/furnished
 - nos.* _____ as amended (together with any statement) under Article 19
 - nos.* _____ received by this Authority on _____
 - nos.* _____ received by this Authority on _____
 - ☒ the drawings:
 - sheets 1/4-4/4 _____ as originally filed/furnished
 - sheets* _____ received by this Authority on _____
 - sheets* _____ received by this Authority on _____
 - ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages _____
 - ☐ the claims, nos. _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (specify): _____
 - ☐ any table(s) related to sequence listing (specify): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - ☐ the description, pages _____
 - ☐ the claims, nos. _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (specify): _____
 - ☐ any table(s) related to sequence listing (specify): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	2, 3, 5, 7, 8	YES
	Claims	1, 4, 6	NO
Inventive step (IS)	Claims	3	YES
	Claims	1, 2, 4-8	NO
Industrial applicability (IA)	Claims	1-8	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
1. Reference is made to the following documents:			
D1: US 6 073 812 A (ALSBERG KEITH D ET AL) 13 June 2000 (2000-06-13);			
D2: FR-A-2 823 185 (VALOIS SA) 11 October 2002 (2002-10-11);			
D3: US-B1-6 179 141 (NAKAMURA KENJI) 30 January 2001 (2001-01-30);			
D4: WO 99/26860 A (ISOWORTH UK LIMITED; DALE, JAMES, PATRICK) 3 June 1999 (1999-06-03).			
2. INDEPENDENT CLAIM 1			
2.1 The present application does not fulfil the requirements set forth in PCT Article 33(1) because the subject matter of claim 1 does not comply with the requirement of novelty defined in PCT Article 33(2).			
Document D1 describes (the references between parentheses apply to said document):			
- a fluid-dispensing device comprising a			

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

container (10) that contains the fluid, a dispensing member (14, 16), such as a pump or a valve, for dispensing the substance contained in said container (10), and a dispensing head (17) for manually actuating said dispensing member (14, 16), wherein said container (10) is a multi-purpose container produced as a single part and comprising at least one of the following elements:

- (a) at least one port (21) for receiving at least one filter (22) for filtering the air that enters said container (10) after each actuation of said dispensing member (14, 16); and
- (b) a neck seal moulded over the neck of said container.

Indeed, D1 discloses a dispensing device (column 4, line 1) comprising a dispensing member (a peristaltic pump but it can also be a valve: see column 4, lines 20-24 and 28-32) and a manual actuation means (17; see figure 1).

It follows that claim 1 as defined is not novel.

3. DEPENDENT CLAIMS 2 and 4-8

These claims do not contain any features which, in combination with the features of any one of the claims to which they refer, fulfil the PCT requirements of novelty and inventive step (PCT Article 33(2) and 33(3)): with respect to the soldered filter and the injection blow moulding of the container, see D1; with respect to the filter

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placed on a side wall of the container, see D4;
with respect to the radial projection formed on
the container neck and in engagement with the
dispensing head, see D2; and, with respect to the
overmoulded neck seal produced in a receiving
profile on the container neck, see D3.

4. DEPENDENT CLAIM 3

The combination of features in claim 3 is not
found in the prior art and cannot be derived in an
obvious manner therefrom, for the following
reasons:

The second radial projection is engageable with
the dispensing head so as to define an abutment
for the actuation stroke (and thereby enhance
metering of the substance dispensed). What is
more, this projection can, during transportation,
have a security function by being engageable with
a removable clip between the head and said
projection.